

**PUBLIC NOTICE
REGARDING
ADOPTION OF NEW AND AMENDED
LOCAL RULES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

By public notice dated May 10, 2000, this Court provided notice and solicited comment regarding certain proposed new and amended Local Rules. After review, the Judges of the United States District Court have determined to adopt such rules with certain modifications based upon comments received and subsequent developments with respect to proposals and amendments to the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure circulated by the Standing Committee on Rules of Practice and Procedure of the Judicial Conference of the United States. In addition, the Judges have amended Local Rules 16.1(B) and 26.2 to secure conformance with amendments to the Federal Rules of Civil Procedure made effective December 1, 2000. (1) The following Local Rule changes become effective January 1, 2001.

(A) Local Rules 7.3 and 112.4 - These two new Local Rules have been adopted to require organizational disclosure statements in civil and criminal proceedings similar to those required by Fed. R. App. P. 26.1. New Local Rule 7.3 will apply in civil proceedings and new Local Rule 112.4 will apply in criminal proceedings. Both new rules have been revised since their circulation by this court for public comment to track rule proposals recently circulated independently by the Standing Committee. See generally, Committee on Rules of

Practice and Procedure of the Judicial Conference of the United States,
Preliminary Draft of Proposed Amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure (August, 2000) at 97-100, 181-184.

In this connection, the organizational disclosure rule for criminal cases has been numbered 112.4 rather than 107.1, as previously circulated by this Court, to relate the Local Rule numerically to proposed Fed. R. Crim. P. 12.4, now being circulated for comment by the Standing Committee. (The designation for a Local Rule 112.3 is being reserved to permit the new Local Rule number to parallel the proposed national rule). Apart from editorial changes, Local Rule 112.4 differs in substance from the proposed rule earlier circulated for comment by this court in that the only victims as to whom disclosure must be made are organizational. This limitation not only parallels that of the proposed national rule but is also in response to comments concerning potential conflict with the timing of discovery in criminal cases.

(B) Local Rules 40.1 and 77.1 - The two amended Local Rules, Rules 40.1 and 77.1, are designed to regularize the assignment and filing of cases within and among the divisional offices of the court. As adopted, they differ from rules circulated for comment in several minor editorial ways. One substantive difference to be noted is that the Court has determined not to provide at this time a special rule

for the assignment of related criminal cases. This is a subject that comments received and discussion during review by the Court made clear that fuller consideration among the interested parties is necessary before the Court provides any exceptions from its blind draw policies and practices with respect to criminal case assignments.

2. Local Rules 16.1(B) and 26.2 - Effective as of December 1, 2000, to coincide with the effective date of amendments to the Federal Rules of Civil Procedure, Local Rules 16.1(B) and 26.2 have been amended to secure continued conformity with the national rules. The Court has determined, pursuant to 28 U.S.C. § 2071(e), that there is an immediate need for these amendments. Those wishing to comment on these amendments to the Local Rules may do so in writing. All comments must be received on or before February 28, 2001 and should be addressed to:

Hon. Douglas P. Woodlock
Chairman, Rules Committee
c/o Helen M. Costello, Projects Manager
United States District Court
United States Courthouse - Suite 2300
1 Courthouse Way
Boston, MA 02210

Tony Anastas
Clerk of Court

December 4, 2000

**RULE 7.3 CORPORATE DISCLOSURE
STATEMENT**

(A) A nongovernmental corporate party to a civil action or proceeding in this court must file a statement identifying any parent corporation and any publicly held company that owns 10% or more of the party's stock.

(B) A party must file the Local Rule 7.3(A) statement upon its first appearance, pleading, petition, motion, response, or other request addressed to the court and must promptly supplement the statement upon any change in the information that the statement requires.

RULE 16.1 EARLY ASSESSMENT OF CASES

* * * *

(B) Obligation of Counsel to Confer. Unless otherwise ordered by the judge, counsel for the parties must, pursuant to Fed.R.Civ.P. 26(f), confer at least 21 days before the date for the scheduling conference: * * * *

RULE 26.2 SEQUENCES OF DISCOVERY

(A) Automatic Required Disclosure. Unless otherwise ordered by the judge, or by the United States Magistrate Judge who has been assigned the case pursuant to 28 U.S.C. § 636(c), disclosure required by Fed. R. Civ. P. 26(a)(1) should be made as soon as practicable and in any event must be made at or within 14 days after the meeting required by Fed. R. Civ. P. 26(f) and LR 16.1(B). Unless otherwise ordered by such a judicial officer, before a party may initiate discovery, that party must provide to other parties disclosure of the information and materials called for by Fed. R. Civ. P. 26(a)(1).

(B) Further Discovery.

Should a party exhaust the opportunities for any type of discovery events under LR 26.1(C), any requests that such party may make for additional interrogatories, depositions, admissions or the production of documents beyond that allowed pursuant to LR 26.1(C) shall be by discovery motion. All requests for additional discovery events, extensions of deadlines, for the completion of discovery or for postponement of the trial must be signed by the attorney and the party making the request.

* * * * *

RULE 40.1 ASSIGNMENT OF CASES

(A) Civil Cases.

(1) *Categories of Cases.* All civil cases shall be divided into the following five categories for purposes of assignment, based upon the numbered Nature of the Suit listed in the civil cover sheet used by the clerk in initiating the civil docket:

I - 160, 410, 470, 535, R.23, regardless of nature of suit:

II - 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820, 830, 840, 850, 890, 892-894, 895, 950.

III - 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.

IV - 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.

V - 150, 152, 153.

A copy of the civil cover sheet form referred to is attached as an appendix to this rule.

(2) *Designation of Nature of Suit.* The party filing the initial pleading shall complete a civil cover sheet, Form JS 44, or any successor forms, and file it with the initial pleading. If the clerk should determine that the designation of Nature of Suit is in error, the clerk shall correctly classify the suit and notify the party filing the initial pleading. A designation shall not thereafter be changed except by order of the Chief Judge or the judge to whom the

case is assigned.

(3) *Assignment.* The clerk shall place a case in one of the five categories described in subsection (A)(1) and, unless otherwise ordered by the Court, assign it by lot among the judges of the court in active service at their respective duty stations in accordance with this rule in such manner that each such judge shall be assigned as nearly as possible the same number of cases in each category. A senior judge may limit the category of case and nature of suit assigned to that judge and, within the categories of cases or suits that senior judge will accept, assignment shall be by lot in accordance with this rule.

(B) Criminal Cases.

(1) *Categories of Cases.* All criminal cases shall be divided into the following three categories:

I - Felony cases expected to require a combined total of fifteen (15) days or more for pretrial hearings and trial before a district judge.

II - All other felony cases.

III - All misdemeanor and petty offense cases where a district judge has been requested; Rule 20 cases; cases involving waivers of indictment; and all matters involving alleged violations of conditions of release by persons transferred to this District for supervision.

(2) *Designation of Category.* The attorney for the United States shall identify the appropriate category on Form JS 45, as modified

for the District of Massachusetts, or any successor form, and submit the form contemporaneously with the document that initiates the case. If the clerk should determine that the designation of category is in error, the clerk shall correctly classify the case and notify the attorney for the United States. The designation shall not thereafter be changed except by order of the Chief Judge or the judge to whom the case is assigned.

(3) *Assignment.* The clerk shall place a case in one of the three categories described in subsection (B)(1) and, unless otherwise ordered by the Court, assign it by lot among the judges of the court in active service at their respective active duty stations within the divisions of the court in accordance with this rule in such manner that each judge shall be assigned as nearly as possible the same number of cases in each category. A senior judge may limit the category of cases or types of alleged criminal offenses assigned to that judge and within the categories of cases or offenses that senior judge will accept, assignment shall be in accordance with this rule.

(C) Designation of Divisions.

The District of Massachusetts constitutes one judicial district comprising three divisions.

(1) *Eastern Division*

The Eastern Division of the District of Massachusetts comprises the counties of Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth, and Suffolk. Cases assigned

to the Eastern Division and all pleadings and documents therein shall be filed in the clerk's office in Boston.

(2) *Central Division*

The Central Division of the District of Massachusetts is Worcester County. Cases assigned to the Central Division and all pleadings and documents therein shall be filed in the clerk's office in Worcester.

(3) *Western Division*

The Western Division of the District of Massachusetts comprises the counties of Berkshire, Franklin, Hampden and Hampshire. Cases shall be assigned to the Western Division and all pleadings and documents therein shall be filed at the clerk's office in Springfield.

(D) Assignment of Civil Cases.

(1) Civil cases shall be assigned to the respective divisions if:

(a) All of the parties reside in that division.

(b) All of the parties reside in the District of Massachusetts and the majority of the plaintiff(s) reside(s) in that division.

(c) The only parties residing in the District of Massachusetts reside in that division; or

(d) Any of the parties are the United States, the Commonwealth of Massachusetts, or any governmental agency of either the United States or the Commonwealth of Massachusetts and a majority of all other parties resident in the District of Massachusetts reside in that

division.

(2) Except as otherwise ordered by the Court, cases not governed by section (D)(1) may be filed, subject to reassignment and transfer, in the division chosen by the plaintiff.

(E) Assignment of Criminal Cases. Criminal cases shall be assigned to that division in which the most significant criminal conduct related to the alleged violations occurred within the District of Massachusetts. All documents in each criminal case shall be filed in the clerk's office administering cases for the division to which that case is assigned.

(F) Transfer between Divisions. Any case may be transferred from one division to another division on motion of any party for good cause shown or sua sponte for good cause by the judge to whom the case is assigned.

(G) Related Civil Cases.

(1) For purposes of this rule, a civil case is related to one previously filed in this court if some or all of the parties are the same and if one or more of the following similarities exist also: the cases involve the same or similar claims or defenses; or the cases involve the same property, transaction or event; or the cases involve insurance coverage for the same property, transaction or event; or the cases involve substantially the same questions of fact and law. In addition, two cases, one criminal and one civil, are related if the civil case involves forfeiture of property from a transaction or

event which is the subject of a previously filed criminal case, or the civil case seeks enforcement of a restitution order or fine imposed in a previously filed criminal case. This rule shall not apply if more than two (2) years have elapsed since the closing of the previous action.

(2) If the party filing the initial pleading believes that the case is related to a case already assigned, whether or not the case is then pending, that party shall notify the clerk by notation on the local civil category sheet indicating the title and number of each such earlier case.

(3) The clerk shall assign related cases to the same judge without regard to the number of other cases in that category previously assigned to that judge. Related cases shall be counted as cases assigned, except as the Chief Judge may otherwise direct.

(4) The assignment of cases as related by the clerk shall be subject to correction only by the judge to whom they have been assigned, who shall return cases erroneously assigned on that basis to the clerk for reassignment.

(5) The treatment of a case as not related to another case shall be subject to correction only by the joint decision of the judge to whom it has been assigned and the judge to whom it should be assigned, if related to another case. The judges may then transfer the case pursuant to section (I) of this rule, and shall notify the clerk of the reason for the transfer.

(H) Proceedings after Assignment. Unless otherwise ordered by the court, all proceedings in a case after its assignment shall be conducted before the judge to whom it has been assigned, except as otherwise provided in these rules. This section does not preclude reassignment of cases by the court or the clerk, at the direction of the court, without prior notice to the parties.

(I) Reassignment and Transfer of Cases. In the interest of justice or to further the efficient performance of the business of the court, a judge may return a case to the clerk for reassignment, whether or not the case is related to any other case, with the approval of the Chief Judge, or, with respect to civil cases only, may transfer the case to another judge, if the other judge consents to the transfer.

(J) Motion for Consolidation of Cases. A motion for consolidation of two or more cases shall be made in the case first filed in this court.

(K) Proceedings after Appeal.

(1) When an appellate court remands a case to this court for a new trial, the case shall be reassigned to a judge other than the judge before whom the first trial was held.

(2) In all other cases in which the mandate of the appellate court requires further proceedings in this court, such proceedings shall not be conducted before the judge before whom the prior proceedings were conducted unless the terms of the remand require that further

proceedings be conducted before the original judge or unless the judge determines that there will result a substantial saving in the time of the whole court and that there is no reason why, in the interest of justice, further proceedings should be conducted before another judge. If the judge before whom the prior proceedings were conducted does not retain the case for further proceedings, that judge shall return it to the clerk for reassignment.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) _____
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2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).
- ___ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ___ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- ___ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ___ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ___ V. 150, 152, 153.
3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.
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4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?
- YES ☐ NO ☐
5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)
- YES ☐ NO ☐
- IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?
- YES ☐ NO ☐
6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?
- YES ☐ NO ☐
7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).
- YES ☐ NO ☐
- A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?
- EASTERN DIVISION ☐ CENTRAL DIVISION ☐ WESTERN DIVISION ☐
- B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?
- EASTERN DIVISION ☐ CENTRAL DIVISION ☐ WESTERN DIVISION ☐
- (PLEASE TYPE OR PRINT)
- ATTORNEY'S NAME _____

ADDRESS _____

TELEPHONE NO. _____

(12-00AMENDMENTS.wpd - 11/27/00)

RULE 77.1 SITTINGS

(A) The court shall be in continuous session for transacting judicial business on all business days throughout the year at Boston, Worcester and Springfield.

(B) Any judge of the court may, in the interest of justice or to further efficient performance of the business of the court, conduct proceedings at a special session at any time, anywhere in the district, on request of a party or otherwise.

RULE 112.4 CORPORATE DISCLOSURE STATEMENT

(A) A nongovernmental corporate party to a criminal proceeding in this court must file a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states there is no such corporation.

(B) If an organization is a victim of the alleged criminal activity, the government must file a statement identifying the victim. If the organizational victim is a corporation, the statement must also disclose the information required by Local Rule 112.4(A) charged in any indictment or information.

(C) A party must file the Local Rule 112.4(A) statement upon its first appearance, pleading, petition, motion, response or other request addressed to the court and must promptly supplement the statement upon any change in the identification that the statement requires.